

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Citizens Utility Board)	
)	
Request for an investigation)	
into the current structure of the Nicor)	
Customer Select Pilot Program and the)	Docket No. 00-0620
Proposed Changes filed August 10, 2000,)	
Meet the Public Interest Standards and)	
Other Requirements Set Forth in the)	
Public Utilities Act. 220 ILCS 5/4-101;)	(Cons.)
220 ILCS 5/8-101; 220 ILCS 8-102)	
)	
Northern Illinois Gas Company)	
)	Docket No. 00-0621
Proposed changes to Riders 15 and 16)	
and related provisions)	

Reply Brief of The Peoples Gas Light and Coke Company

1 Pursuant to Section 200.800 of the Commission's Rules of Practice (83 Ill.
2 Admin. Code §200.800) and the schedule and procedure established by the
3 Hearing Examiner on March 1, 2001, The Peoples Gas Light and Coke Company
4 ("Peoples Gas") hereby submits its Reply Brief in the above-captioned
5 consolidated proceeding. Peoples Gas received initial briefs from Northern
6 Illinois Gas Company d/b/a Nicor Gas Company ("Nicor Gas"); the Illinois
7 Commerce Commission Staff ("Staff"); the Citizens Utility Board and the State's
8 Attorney of Cook County ("CUB/Cook County"); the Illinois Attorney General
9 ("AG"); and the National Energy Marketers Association ("NEM").

I. Overview

On August 11, 2000, Nicor Gas filed several proposed revisions to its Customer Select[®] program, including Rider 15, Customer Select, and Rider 16, Supplier Aggregation Service. Among the matters addressed in Staff's and parties' initial briefs in this proceeding are billing procedures and the use of a corporate name and logo by Nicor Gas' affiliated retail marketer. Peoples Gas' Reply Brief is limited to these two issues.

Regarding the first issue, Peoples Gas supports Nicor Gas' proposed billing procedure under which Nicor Gas sends its bill for utility service directly to the customer. There is substantial support for this procedure, and the arguments of Staff and intervenors to the contrary are not persuasive. Regarding the second issue, the treatment of the use of a utility or its parent company's corporate name and logo by non-utility affiliated interests is the subject of another proceeding (Ill.C.C. Docket No. 00-0586). This matter is more appropriately addressed in that proceeding.

II. Should Customer Select[®] Be Expanded to All Residential Customers

Peoples Gas has no opinion on this issue.

IIIA. What Changes Should Be Made To Rider 15?

Peoples Gas' Reply Brief is limited to the section entitled "Billing Date" in Rider 15, Customer Select. Peoples Gas supports approval of this section as filed by Nicor Gas.

31 **A. There Is Substantial Support for Nicor Gas' Billing Proposal**

32 Rider 15 currently states that: "The Company shall issue its bill for
33 transportation service under this rider directly to the Customer on the Company's
34 normal billing schedule." Nicor Gas proposed clarifying this provision by adding
35 "Customers receiving service under this Rider shall not be allowed to designate
36 their supplier as the bill recipient for bills rendered by the Company." Nicor Gas
37 witness Harms showed why this billing procedure is appropriate for Customer
38 Select[®]. There is substantial evidence in the record in support of Nicor Gas'
39 proposal. Nicor Gas Ex. E, pp. 15-16; Nicor Gas Ex. F, pp. 25-26. Additionally,
40 in their initial briefs, Peoples Gas and Nicor Gas both provided compelling
41 arguments in support of the proposal and demonstrated the deficiencies in
42 proposals to allow suppliers to provide a consolidated bill to customers. Peoples
43 Gas In. Br., pp. 2-13; Nicor Gas In. Br., pp. 22-25.

44 **B. Arguments in Opposition to Nicor Gas'**
45 **Billing Procedure Are Not Persuasive**

46 Staff and NEM each advocated that suppliers be allowed to offer single
47 billing as part of this proceeding. Staff In. Br., pp. 6-15; NEM In. Br., pp. 4-12.
48 CUB/Cook County and the AG each advocated that suppliers be allowed to offer
49 single billing after an assortment of issues, generally related to consumer
50 protection, disclosure, billing and collection, are addressed in a separate
51 proceeding or "an extension of the current proceeding." CUB/Cook County In.
52 Br., pp. 35-36; AG In. Br., pp. 27-29.

53 **1. Staff.** As Peoples Gas explained in its Initial Brief, Staff, on the one
54 hand, supported supplier single billing but, on the other hand, identified a host of

unresolved issues associated with single billing. Indeed, Staff's initial brief listed seven issues that need to be resolved to implement a single billing tariff. Staff also cited the additional issues raised by governmental and consumer witness Alexander. Staff In. Br., pp. 9-10. Somewhat cryptically, Staff asserted that many of the single billing tariff issues that it and Ms. Alexander raised would not need to be addressed if single billing occurred through an agency arrangement, but it failed to identify each of those issues and how, in fact, single billing by agency would be implemented. Id. at p. 14.

The deficiencies with Staff's proposal are manifest. Staff continued to cite the electric industry as a guide, but it ignored the fact that the Illinois electric industry not only has a specific statutory provision guiding how supplier single billing should occur, but the utilities implemented single billing tariffs. There is no comprehensive supplier single billing proposal in the record. Instead, there is a substantial list of potential problems and concerns with supplier single billing that even the advocates of such billing have identified. When, as here, Staff does not even resolve the problems it raises, much less the problems raised by other parties, there is no basis for accepting Staff's proposal.

2. NEM. NEM hinted at possible legal barriers to adopting Nicor Gas' billing proposal. It tossed out the concepts of interference with contracts and discrimination. NEM In. Br., p. 9. Neither argument is developed or supported. Contrary to NEM's assertion (Id.), Nicor Gas' proposal would not prohibit customers and suppliers from entering into agency relationships. Nicor Gas'

tariff, which, once approved, would have the force of law¹, would simply prevent a customer taking service under the Customer Select[®] program from having the utility bill sent directly to the supplier. The Commission clearly has jurisdiction over utility billing practices², and it thus has statutory authority to approve this element of Nicor Gas' tariff. Moreover, Nicor Gas demonstrated why it is reasonable for Customer Select[®] program customers to be subject to a provision that does not currently apply to large volume transportation customers. Nicor Gas. Ex. E, pp. 16-17. Nicor Gas' proposal is, thus, not unduly discriminatory.

3. CUB/Cook County and AG. Neither CUB/Cook County nor the AG supported the adoption of supplier single billing in this proceeding. Although both advocated allowing supplier single billing, each identified several issues that each believes need to be resolved prior to implementation of such billing. While Peoples Gas does not agree that another proceeding should be initiated to address supplier single billing, suffice it to say that CUB/Cook County's and the AG's position is consonant with Peoples Gas' to the extent that both agree that the record in this proceeding is inadequate to order supplier single billing.

IIIB. What Changes Should be Made to Rider 16?

Nicor Gas' Standards of Conduct, subpart (I), states that suppliers "should refrain from changing or causing to be changed, the Customer's mailing address to a location accessible to the Supplier." For the reasons set forth in Peoples Gas' initial brief and Section IIIA, *supra*, this provision should be approved as

¹ Illinois Central Gulf Railroad Company v. Sankey Brothers, Inc., 67 Ill. App. 3d 435 (1978) at p. 439.

² See, e.g., Sec. 5-401 and Art. VIII of the Public Utilities Act (220 ILCS 5/5-401 and Art. VIII).

98 filed.

99 **IIIC. What Other Actions Should Be Taken**

100 Staff, CUB/Cook County and the AG each proposed restrictions on the
101 use of a common corporate name or logo by Nicor Gas' retail marketing affiliate.
102 Specifically, Staff recommended the use of a disclaimer. Staff In. Br., pp. 60-61.
103 The AG and CUB/Cook County proposed a prohibition on the use of a common
104 name/logo or a disclaimer. AG In. Br., pp. 16-17; CUB/Cook County In. Br., pp.
105 17-21.

106 This issue is being addressed in Docket No. 00-0586.³ That proceeding
107 and the instant proceeding are on a comparable timetable. The corporate name
108 and logo issue should be addressed in Docket No. 00-0586. Peoples Gas, in
109 joint comments filed with North Shore Gas Company, made extensive and
110 compelling arguments in that proceeding for why a restriction (either a ban or a
111 disclaimer) is unsupported and would be inappropriate.

112 **IV. Conclusion**

113 There is substantial record evidence in support of Nicor Gas' proposed
114 Billing Date section in Rider 15 and subsection (I) of its Standards of Conduct in
115 Rider 16. The arguments in Staff's and parties' initial briefs do not detract from
116 that showing. Both provisions should be approved as filed. Issues related to
117 affiliate use of a common corporate name and logo should be resolved in the
118 pending rulemaking proceeding in Docket No. 00-0586.

³ Proposed rules to be codified at 83 Ill. Adm. Code 550, Non-Discrimination in Affiliate Transactions for Gas Utilities.

119 WHEREFORE, The Peoples Gas Light and Coke Company respectfully
120 submits its Reply Brief in this proceeding.

Respectfully submitted,

The Peoples Gas Light and Coke Company

/S/ MARY KLYASHEFF
Mary Klyasheff
An Attorney for
The Peoples Gas Light and Coke Company

James Hinchliff
Gerard T. Fox
Mary Klyasheff
Attorneys for
The Peoples Gas Light and Coke Company
23rd Floor
130 East Randolph Drive
Chicago, Illinois 60601
telephone: (312) 240-4410
facsimile: (312) 240-4486
e-mail: m.klyasheff@pecorp.com

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NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Service List

PLEASE TAKE NOTICE that on this 12th day of April, 2001, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Reply Brief of The Peoples Gas Light and Coke Company, a copy of which is hereby served upon you by e-mail and United States Mail on April 12, 2001.

By: /S/ MARY KLYASHEFF
Mary Klyasheff
An Attorney for
The Peoples Gas Light and Coke Company

James Hinchliff
Gerard T. Fox
Mary Klyasheff
Attorneys for
The Peoples Gas Light and Coke Company
130 E. Randolph
23rd Floor
Chicago, Illinois 60601
(312) 240-4410
Facsimile: (312) 240-4486
e-mail: m.klyasheff@pecorp.com